

ORIGINAL

RECEIVED

SEP 15 1997

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Petition of US WEST Communications, Inc. )  
for a Declaratory Ruling Regarding )  
the Provision of National Directory )  
Assistance )

CC Docket No. 97-172

REPLY COMMENTS  
OF  
AMERITECH

I. Introduction and Summary

The MFJ was terminated, at Congress' direction, by the very Court that adopted it. The Telecommunications Act of 1996<sup>1</sup> is now the law. Whatever the result of the IXCs' intellectual argument over how it might have been viewed by the MFJ Court had the Act not been passed, National Directory Assistance ("National D/A") is clearly a permissible BOC offering under the Act. Despite the predictable urgings of the IXCs to disregard Congress' unambiguous language in the Act, for the sake of protecting their claim to traffic "that otherwise would be carried by long-distance

---

<sup>1</sup> 47 U.S.C. §§ 151 et seq. (hereinafter "Act").

companies",<sup>2</sup> the Commission should act on the basis of the record before it and grant US WEST the declaratory ruling it seeks that National D/A service is a permissible offering under the Act.

Use of the "411" code to provide customer access to National D/A service is not prohibited by any existing Commission precedent. For this reason, US WEST is fully entitled to the Declaratory Ruling it seeks on this point as well.

II. US WEST's implementation of National D/A service is not a prohibited "interLATA service" under the Act.

As even AT&T admits,<sup>3</sup> the term "interLATA service" is precisely defined in the Act as "telecommunications between a point located in a [LATA] and a point located outside such [LATA]".<sup>4</sup> "Telecommunications", in turn, is precisely defined as having two distinct elements: it is "the transmission, between or among points specified by the user, of information ...".<sup>5</sup> The obvious logical result of these two definitions taken together is, of course, that there can be no "interLATA service" where there is no interLATA "transmission" between "points specified by the user." While US

---

<sup>2</sup> Comments of AT&T, at ii.

<sup>3</sup> Comments of AT&T, at 4.

<sup>4</sup> 47 U.S.C. § 153 (21) (emphasis added).

<sup>5</sup> 47 U.S.C. § 153 (43) (emphasis added).

WEST's implementation of National D/A service arguably includes the first of these two requirements, it does not involve the second of these requirements. Thus, it cannot be an interLATA service.

Many of the points made in US WEST's Petition effectively refute allegations made by MCI in its pending Complaint<sup>6</sup> regarding Ameritech's National Directory Assistance ("National D/A") service. Although US WEST's implementation of National D/A differs from Ameritech's in one respect -- its transport of incoming customer traffic to centralized operator centers across LATA boundaries<sup>7</sup> -- it is clear that US WEST's National D/A service nonetheless does not constitute a prohibited interLATA service under the Act.

As noted by Ameritech in responding to MCI's Complaint against it,<sup>8</sup> Ameritech's implementation of National D/A service fails the first of the statute's requirements -- it involves no interLATA transmission. Ameritech's National D/A service is provided in a manner which insures that a caller seeking directory assistance and the Ameritech operator

---

<sup>6</sup> MCI Telecommunications Corp. v. Illinois Bell et al., FCC File No. E-97-19, Complaint, filed April 10, 1997 (hereinafter "MCI Complaint"). MCI's Complaint also contained several counts setting forth various allegations regarding another Ameritech offering known as 1-800-AMERITECH; those allegations are not relevant to this proceeding.

<sup>7</sup> In the Matter of Petition of US WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance, Petition for Declaratory Ruling, filed July 17, 1997 (hereinafter "Petition") at 3.

<sup>8</sup> MCI Telecommunications Corp. v. Illinois Bell et al., FCC File No. E-97-19, Answer of Ameritech, filed May 27, 1997 (hereinafter "Ameritech's Answer"), at 11.

providing such assistance are always in the same LATA. Hence, under the dispositive statutory language noted above, Ameritech's implementation of National D/A fails the first of the statute's requirements; there is no interLATA transmission provided by Ameritech to customers as part of the service.

US WEST's National D/A service, on the other hand, fails the second statutory requirement for an interLATA service -- it does not involve transmission "between or among points specified by the user." As noted in the Petition, "(c)allers to US WEST's Directory Assistance may speak to an operator in the LATA from which they call, but the greater likelihood is that the operator will be in another LATA, and likely in another state."<sup>9</sup> A customer using US WEST's National D/A service does not specify that they wish to contact an operator in any particular LATA; she merely seeks the telephone numbers of another parties that she wishes to call. Since there is no election to establish either an interLATA or an intraLATA transmission path, such a caller cannot be said to "specify" the end point of a call. Thus, because the second requirement of the statute is unsatisfied, US WEST's service cannot be an interLATA service.

Even if the statutory definition of an "interLATA service" were not dispositive of the matter, US WEST's service is permitted by other language

---

<sup>9</sup> Petition, at 13.

in the Act. The BOCs have often provided Directory Assistance services in the centralized fashion described by US WEST since long before the passage of the 1996 Act, because it is more efficient than maintaining Directory Assistance centers in each LATA. Since the passage of the 1996 Act, they have done so in reliance upon Congress' exception to the interLATA prohibition for "previously authorized activities."<sup>10</sup> Precisely because of the efficiencies afforded by centralization, the MFJ court did authorize the activity in which US WEST is engaged, specifically noting that "the decree does not prohibit the Operating Companies from providing their own Official Services, including, if necessary, by the construction of the appropriate inter-LATA facilities."<sup>11</sup> Directly to the point at hand, the very term "Official Services" includes "service circuits ... used to receive repair calls and directory assistance calls ...".<sup>12</sup>

Faced with this clear statutory language directly on point, it is not surprising that the IXC's wishfully argue that the MFJ were still in force. AT&T, for example, advances a five-page argument -- supported by no less than nine MFJ citations -- that National D/A "would have violated the

---

<sup>10</sup> In the 1996 Act, Congress granted an exemption from its requirements for BOC provision of interLATA services for "any activity to the extent authorized by ... an order entered by the United States District Court for the District of Columbia ... if such order was entered on or before such date of enactment ...". 47 U.S.C. 271 (f).

<sup>11</sup> U.S. v. Western Electric Co., Inc., 596 F Supp. 1057, 1101 (D.D.C., 1983).

<sup>12</sup> Id., at 1098 (n. 179) (emphasis added). Contrary to AT&T's claims (at 6-7), this passage did not distinguish between local and national directory assistance calls.

MFJ".<sup>13</sup> In its effort to turn back the clock, AT&T actually turns the statute completely inside out, arguing that "the legislative history confirms that section 271 would prohibit all of the activities prohibited by the MFJ."<sup>14</sup> This, of course, would require the Commission to disregard Congress' mandate that the Act's own terms would govern and that conduct previously subject to the Decree "shall not be subject to the restrictions and obligations imposed by such Consent Decree."<sup>15</sup>

### III. National D/A service per se is not an "interLATA service".

As noted by US WEST,<sup>16</sup> no provision of the Act prohibits a Bell Operating Company ("BOC") from providing Directory Assistance services of any kind. Likewise, no provision of the Act purports to limit the scope of telephone numbers a BOC may lawfully provide to its Directory Assistance customers. Ignoring this indisputable fact, MCI argues without support that "interLATA directory assistance is an interLATA service to be provided by IXCs."<sup>17</sup> Similarly, AT&T bemoans the fact that "US WEST has placed itself in competition with the IXCs."<sup>18</sup> These wishful claims to the National

---

<sup>13</sup> Comments of AT&T, at 4-8.

<sup>14</sup> Comments of AT&T, at 10.

<sup>15</sup> Telecommunications Act of 1996, Pub. L. 105-104, § 601(a)(1), 100 Stat. 143 (emphasis added).

<sup>16</sup> Petition, at 5.

<sup>17</sup> Comments of MCI, at 5 (emphasis added).

<sup>18</sup> Comments of AT&T, at 6.

D/A market segment notwithstanding, the clear statutory definition discussed above requires that an interLATA service must include interLATA transmission between or among points specified by the user. There is simply nothing in the Act or elsewhere upon which to base a credible argument that National D/A service is, by its inherent nature, an interLATA service as that term has been defined by Congress.

IV. The use of 411 as an access code for National D/A is not prohibited.

The Commission's recent N11 Order requires that any local exchange carrier ("LEC") using 411 to provide access to an enhanced service must provide nondiscriminatory use of the 411 code to access competing enhanced services.<sup>19</sup> As explained in Ameritech's pending Petition for Clarification in that matter,<sup>20</sup> this Order distinguished between basic and enhanced services, noting that some services -- including directory assistance services -- have been classified by the Commission as "adjunct to basic" services, and thus not treated as enhanced services. Most significantly to US WEST's Petition, the N11 Order does not categorize National D/A as

---

<sup>19</sup> In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, First Report and Order and Further Notice of Proposed Rulemaking, rel. February 19, 1997 (hereinafter "N11 Order"), at 25 (emphasis added).

<sup>20</sup> In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, Ameritech's Petition for Clarification, filed March 28, 1997 (hereinafter "Petition for Clarification"), at 8-14.

an enhanced service, which would subject it to the Order's requirement regarding the use of 411 as an access code.

Ameritech's Petition in the N11 proceeding seeks clarification that the Commission did not intend to append to its long-standing definition of "adjunct to basic" services a new requirement that the service at issue must be of an undefined "local" character."<sup>21</sup> For example, classification of a particular service as either enhanced or adjunct to basic based upon some ambiguous "local" characteristic would lead to the absurd result that a BOC offering speed dialing -- a service previously categorized as adjunct to basic -- could no longer permit customers to store telephone numbers outside their LATAs in their personal speed dialing tables. Similarly, call forwarding service -- also long categorized by the Commission as adjunct to basic -- could change to the enhanced category if a "forward-to" number outside the LATA were entered by the customer.

In the instant proceeding, AT&T either does not know or refuses to acknowledge that Ameritech's pending Petition for Clarification has placed this issue squarely before the Commission. MCI admits this much, but asserts without supporting citations -- or even supporting argument -- that "411 should still be restricted to local directory assistance ...".<sup>22</sup> The only relevant fact to the instant inquiry is that, absent a Commission holding

---

<sup>21</sup> Id., at 14.

<sup>22</sup> Comments of MCI, at 14.



that National D/A is an enhanced service, the N11 Order's words do not prohibit BOC use of 411 to access that service. Thus, despite MCI's urging to the contrary,<sup>23</sup> there is no "requirement" with which US WEST must comply in this regard.

V. Conclusion

As explained above, US WEST's Petition is fully supported by both statutory authority and all relevant FCC precedent. For this reason, the Commission should timely grant US WEST the Declaratory Ruling it seeks.

Respectfully submitted,

  
Frank Michael Panek

Attorney for Ameritech  
Room 4H84  
2000 West Ameritech Center Drive  
Hoffman Estates, IL 60196-1025  
(847) 248-6064

Dated: September 15, 1997

---

<sup>23</sup> Id.

CERTIFICATE OF SERVICE

I, Edith Smith, do hereby certify that a copy of Ameritech's Reply Comments has been served on the parties on the attached service list, via first class mail, postage prepaid, on this 15th day of September, 1997.

By: Edith Smith  
Edith Smith *hak*

M ROBERT SUTHERLAND  
THEODORE R KINGSLEY  
BELLSOUTH CORPORATION  
SUITE 1700  
1155 PEACHTREE STREET NE  
ATLANTA GEORGIA 30309-3610

R DALE DIXON JR  
FRANK W KROGH  
LISA B SMITH  
MCI TELECOMMUNICATIONS  
CORPORATION  
1801 PENNSYLVANIA AVENUE NW  
WASHINGTON DC 20006

MARK C ROSENBLUM  
AVA B KLEINMAN  
JAMES H BOLIN JR  
ROOM 3252J1  
295 NORTH MAPLE AVENUE  
BASKING RIDGE NEW JERSEY 07920

GEORGE PETRUTSAS  
PAUL J FELDMAN  
ROSEVILLE TELEPHONE COMPANY  
FLETCHER HEALD & HILDRETH PLC  
11TH FLOOR 1300 NORTH 17TH STREET  
ROSSLYN VIRGINIA 22209

ROBERT M LYNCH  
DURWARD D DUPRE  
SOUTHWESTERN BELL TELEPHONE  
COMPANY  
ONE BELL CENTER ROOM 3520  
ST LOUIS MISSOURI 63101

MARY W MARKS  
MARJORIE MORRIS WEISMAN  
SOUTHWESTERN BELL TELEPHONE  
COMPANY  
ONE BELL CENTER ROOM 3520  
ST LOUIS MISSOURI 63101

ROBERT A SHIVES  
PACIFIC BELL  
2600 CAMINO RAMON  
ROOM 2W803  
SAN RAMON CA 94583

APRIL RODEWALD  
NEVADA BELL  
P.O. BOX 11017  
645 E PLUM LANE  
RENO NEVADA 89520

JOHN M GOODMAN  
EDWARD D YOUNG III  
MICHAEL E GLOVER  
BELL ATLANTIC  
1300 I STREET NW  
WASHINGTON DC 20005